

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>JACK B. MANN, III</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 259,768
<b>MIDWEST STAFF SOLUTIONS</b>	)	
Respondent	)	
AND	)	
	)	
<b>FIREMAN'S FUND INSURANCE COMPANY</b>	)	
Insurance Carrier	)	

**ORDER**

Respondent and its insurance carrier appealed the September 18, 2002 preliminary hearing Order entered by Administrative Law Judge Jon L. Frobish.

**ISSUES**

This is a claim for an April 26, 2000 accident, when a wooden cabinet fell and struck claimant on the head, neck and shoulder. In the September 18, 2002 Order, Judge Frobish denied respondent and its insurance carrier's request to be relieved from continuing to provide workers compensation benefits to claimant.

Respondent and its insurance carrier contend Judge Frobish erred. They argue claimant has sustained a subsequent accident while working for another employer and, therefore, the injury that claimant sustained while working for respondent has been aggravated. Moreover, they argue claimant's new employer should be responsible for providing claimant's workers compensation benefits. Accordingly, respondent and its insurance carrier request the Board to reverse the September 18, 2002 Order.

Conversely, claimant contends the Judge correctly analyzed the evidence and, therefore, the Board should affirm the Order.

The only issue before the Board on this appeal is whether claimant's neck surgery and present condition are directly related to the April 2000 accidental injury (or the natural progression of that injury), or whether claimant sustained a new and distinct accidental injury while working for another employer after the April 26, 2000 accident.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record compiled to date, the Board finds and concludes:

Claimant has experienced ongoing pain in his back and neck following an April 26, 2000 accident, when a wooden cabinet fell and struck him on the head and neck. Despite receiving conservative and nonoperative treatment, claimant's pain was constantly aggravated, whether he was working or not. Claimant testified, in part:

Q. (Mr. Torline) He [Dr. Robertson] indicates that you told him aggravating factors, things that aggravate your neck, appear to be sitting and standing, would that be true?

A. (Claimant) Well, I'm aggravated all the time, laying down, sitting, standing, it doesn't matter what I do.

. . . .

Q. And you -- and also his notes indicate that you told him that the pain interferes with your ability to work; would that be true?

A. Well, I don't think it interferes with the ability. It hurts when I work, but it hurts when I'm sitting, it hurts when I'm sleeping.<sup>1</sup>

Although the record is not clear, at some unspecified time before the doctor's June 2002 deposition, Dr. Glenn M. Amundson operated on claimant's cervical spine. According to claimant, he had endured the pain long enough and finally decided he wanted surgery to relieve his symptoms when the other treatment regimens, including steroid injections, had failed.

Dr. Amundson, who began treating claimant in April 2001 and who promptly diagnosed spinal stenosis, determined claimant's cervical spine was severely aggravated by the April 2000 work-related accident. Moreover, when asked if claimant's need for surgery was related to the April 2000 accident or to his working after that accident, the doctor indicated claimant's pain syndrome and debility were directly related to the April 2000 accident.

The Board concludes the preliminary hearing Order should be affirmed. The Board finds that claimant's neck surgery and his pain syndrome are directly related to his April 26, 2000 accident while working for respondent.

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<sup>1</sup> P.H. Trans. (May 28, 2002) at 14.

The Board adopts the findings and conclusions set forth in its February 13, 2002 Order in this claim in which the Board determined “that claimant’s current symptoms are not the result of a new accident but are the natural and probable consequence of claimant’s original April 26, 2000, accident.”

**WHEREFORE**, the Board affirms the September 18, 2002 Order entered by Judge Frobish.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of November 2002.

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BOARD MEMBER

c: Jeff K. Cooper, Attorney for Claimant  
Terry J. Torline, Attorney for Respondent and its Insurance Carrier  
Jon L. Frobish, Administrative Law Judge  
Director, Division of Workers Compensation